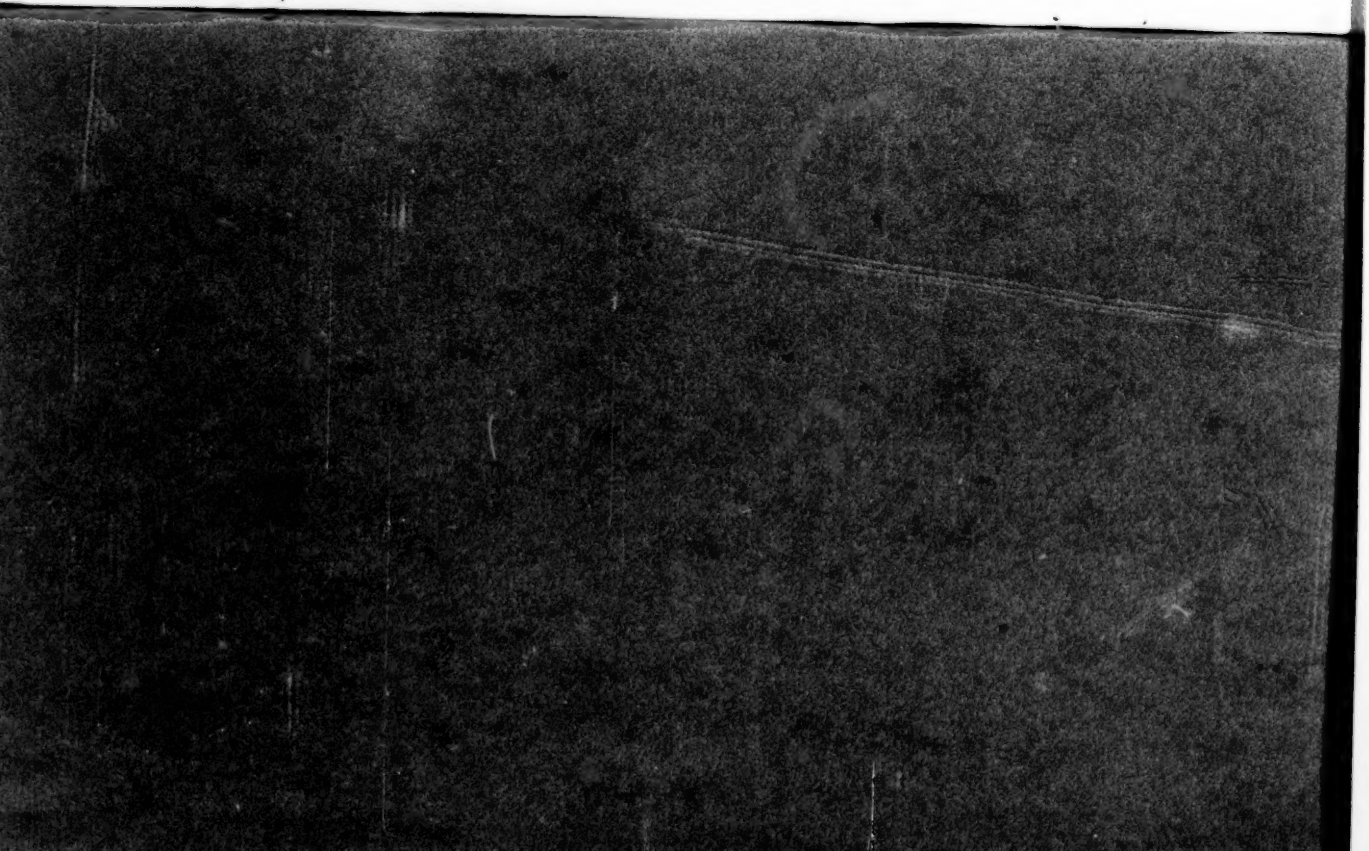

# SUPREME COURT OF THE UNITED STATES.

## OCTOBER TERM, 1898.

## No. 382.

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THE UNITED STATES, APPELLANT,

vs.

MRS. GUE LIM, AH TONG, YEE YUEN, AND AH QUONG

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF WASHINGTON.

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INDEX.


| | Original. | Print. |
|---|---|---|
| Caption | | |
| Affidavit of F. D. Schuyler | a | 1 |
| Minute entry. Case taken under advisement | 1 | 1 |
| Warrant of arrest | 2 | 1 |
| Marshal's return | 3 | 2 |
| Judgment | 4 | 2 |
| Opinion | 5 | 2 |
| Agreed statement of facts | 6 | 3 |
| Appeal | 15 | 8 |
| Order allowing appeal | 16 | 8 |
| Assignment of errors | 17 | 9 |
| Notice to Gue Lim of intention to appeal and acknowledgment of service of same | 18 | 9 |
| Notice to Ah Tong et al. of intention to appeal and acknowledgment of service of same | 19 | 10 |
| Præcipe for transcript | 20 | 11 |
| Citation (copy) | 21 | 11 |
| Acknowledgment of service of citation | 22 | 12 |
| Notice of appeal to district court by Ah Tong | 23 | 12 |
| Order docketing appeal of Ah Tong and suspending proceedings | 24 | 12 |
| Order discharging Ah Tong | 25 | 13 |
| Agreed statement of facts—United States *v.* Ah Tong, Yee Yuen, and Ah Quong | 27 | 14 |
| Notice of appeal to district court by Yee Yuen | 28 | 14 |
| Order docketing appeal of Yee Yuen and suspending proceedings | 29 | 15 |
| Order discharging Yee Yuen | 30 | 16 |
| | 32 | 16 |

| | Original. | Print. |
|---|---|---|
| Agreed statement of facts—United States *v.* Ah Tong, Yee Yuen, and Ah Quong | 33 | 17 |
| Notice of appeal to district court by Ah Quong | 34 | 18 |
| Order docketing appeal of Ah Quong and suspending proceedings | 35 | 18 |
| Order discharging Ah Quong | 37 | 19 |
| Clerk's certificate | 38 | 20 |
| Citation (original) | 39 | 20 |
| Acknowledgment of service of citation | 40 | 21 |

a In the district court of the United States for the district of Washington.

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| UNITED STATES *vs.* MRS. GUE LIM, AH TONG, YEE YUEN, and AH QUONG. | No. 1136 in the northern division. Nos. 178, 179, and 181, respectively, in the western division. |

TRANSCRIPT ON APPEAL.

*Appeal from the district court of the United States for the district of Washington to the Supreme Court of the United States.*

1 In the United States district court for the district of Washington, northern division.—Before the Honorable C. H. Hanford, judge of said court.

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| UNITED STATES OF AMERICA *vs.* MRS. GUE LIM. | No. 1136. |

*Complaint.*

F. D. Schuyler, of lawful age, being first duly sworn, on his oath says that he is a Chinese inspector of the United States, and that Mrs. Gue Lim is a Chinese laborer, and was found unlawfully in the United States, at the county of King, in the district of Washington, on the 2nd day of October, 1897, without having been registered as a Chinese laborer and without having in his *her* possession then and there a certificate of registration as a Chinese laborer, as required by law, and without having any other legal right or authority to be and remain in the United States, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

F. D. SCHUYLER.

Subscribed and sworn to before me this 2nd day of October, 1897.

R. M. HOPKINS,
*Clerk of the United States District Court for the District of Washington.*

(Indorsed:) Complaint. Filed Oct. 2, 1897, in the U. S. district court. R. M. Hopkins, clerk, by H. M. Walthew, deputy.

2 OCTOBER 7, 1897.

District Court Gen'l Order Book, volume 3, page 414.

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| UNITED STATES *v.* MRS. GUE LIM. | 1136. |

Now, on this day, this cause coming on for final hearing, the court, after hearing argument of respective counsel, takes said matter under advisement.

3 In the district court of the United States, district of Washington.

UNITED STATES }
*vs.*
MRS. GUE LIM. }

*Warrant.*

Whereas on the 2nd day of October, A. D. 1897, F. D. Schuyler, esq., a Chinese inspector of the United States, has filed a complaint against the said Mrs. Gue Lim, charging that the said Mrs. Gue Lim was on the 2nd day of October, 1897, at the county of King, in the district of Washington, a Chinese person, that is to say, a Chinese laborer, and that the said Mrs. Gue Lim was then and there unlawfully in the United States, without having a certificate of registration as a Chinese laborer, or any other legal authority to remain in the United States, contrary to the form of the statutes of the United States of America in such case made and provided, and against the peace and dignity of the United States of America:

Now, therefore, you are hereby commanded in the name of the President of the United States of America to apprehend the said Mrs. Gue Lim, and her bring before said district court in the city of Seattle to answer said complaint.

Witness the Hon. C. H. Hanford, judge of said district court and the seal thereof, at the city of Seattle, this 2nd day of October, 1897.

R. M. HOPKINS, *Clerk*,
[SEAL.] By H. M. WALTHEW, *Deputy Clerk*.

To the United States marshal for the district of Washington, or to any or either of his deputies.

4 I hereby certifty that I received the within warrant on the 2nd day of October, A. D. 1897, and on the same day executed the same by arresting the within named Mrs. Gue Lim at Seattle, and have her body now in court, as herein I am commanded.

C. W. IDE, *U. S. Marshal*,
By J. H. MCLAUGHLIN, *Deputy*.

Dated Oct. 7th, 1897.
Marshal's fees, $2.52.

(Indorsed:) Warrant of arrest. Filed Oct. 9, 1897. R. M. Hopkins, clerk, by A. N. Moore, deputy.

5 OCTOBER 21, 1897.

District Court General Order Book, volume 3, page 419.

UNITED STATES }
*v.* } 1136.
MRS. GUE LIM. }

Now, on this day, this cause coming on to be heard, the court, after hearing evidence on behalf of plaintiff and defendant, holds that the said Mrs. Gue Lim is the wife of a Chinese merchant, lawfully domiciled

and doing business as a merchant, not a laborer nor a person excluded by the laws of the United States from coming to or remaining in the United States; and she is, therefore, discharged from custody and this cause dismissed.

6 In the district court of the United States, district of Washington, northern division.

THE UNITED STATES }
*vs.*
MRS. GUE LIM. }

*Opinion.—Filed October 28, 1897.*

Wm. H. Brinker, United States attorney, for the United States; George S. Bush, for the defendant.

HANFORD, district judge:

The defendant is the wife of a Chinese merchant, lawfully domiciled and doing business as a merchant in this State; upon her arrival, a few months ago, the collector of customs at the port of her arrival, upon proof which he considered sufficient, that she is not a laborer, nor a person excluded by the laws of the United States from coming to this country, and that she is the lawful wife of a Chinese merchant, permitted her to land and take up her residence with her husband; but her right to enter was not evidenced by the certificate prescribed by the 6th sec. of the act of July 5th, 1884 (1 Sup. R. S., 2nd ed., 459), which reads as follows:

"SEC. 6. That in order to the faithful execution of the provisions of this act, every Chinese person, other than a laborer, who may be entitled by said treaty or this act to come within the United States, and who shall be about to come to the United States, shall obtain the permission of and be identified as so entitled by the Chinese Government, or of such other foreign Government of which at the time such Chinese person shall be a subject, in each case to be evidenced by a certificate issued by such Government, which certificate shall be in the English language, and shall show such permission, with the name of the permitted person in his or her proper signature, and which certificate shall state the individual, family, and tribal name in full, title or official rank, if any, the age, height, and all physical peculiarities, former and present
7 occupation or profession, when and where and how long pursued, and place of residence of the person to whom the certificate is issued, and that such person is entitled by this act to come within the United States.

"If the person so applying for a certificate shall be a merchant said certificate shall, in addition to above requirements, state the nature, character, and estimated value of the business carried on by him prior to and at the time of his application as aforesaid. * * *"

The present proceeding was initiated by a complaint sworn to by an officer whose duty is to see to the enforcement of the statutes excluding Chinese laborers, alleging that the defendant is a Chinese laborer, not registered, and not having possession of a certificate of registration, as

required by the act of May 2, 1892 (2 Sup. R. S., p. 13). Upon said complaint a warrant was issued, and the defendant has been brought before the court for the purpose of obtaining an order for her deportation.

As the defendant does not belong to the laboring class, she is not required to be registered, and her arrival in this country was not in time to have entitled her to be registered, as provided in the last-mentioned act. The question in the case is whether she was entitled to be admitted upon her arrival without producing the certificate required of Chinese persons privileged to enter by the 6th sec. of the act of 1884, above quoted.

In a case similar to this, which came before Judge Deady at Portland in 1890, that eminent judge considered the question in all its phases, and held that the wife and minor child of a Chinese merchant lawfully dwelling in the United States were not of the laboring class, and therefore not excluded from entering; and held section 6 of the act of 1884 to be not applicable to such a case for the reason that it is impracticable for such persons to comply with the requirements of that section, and the effect of the statute, if applicable to such cases, must necessarily be to
8 exclude them and deprive them of rights guaranteed by the treaty of 1880. (In re Chung Toy Ho, 42 Fed. Rep., 398.)

I find support for this decision in the opinion of Judge Sawyer, in the case of Ah Moy, 21 Fed. Rep., 785, wherein he shows that the Chinese exclusion acts were intended to apply to laborers as a class, and that the wife of a Chinese person has the same status as her husband, and belongs to the class to which he belongs, whether she is in fact a laborer or not. Also in the decision of the Supreme Court in the case of Lau Ow Bew, 144 U. S., 47–64, wherein it was held that a Chinese merchant having an established mercantile business in the United States, and maintaining therein a commercial domicil, upon returning from a temporary absence, was entitled to enter and remain in this country without producing the certificate required by sec. 6 of the act of 1884. Chief Justice Fuller, in the opinion of the court, says:

"The amendatory act of July 5, 1884, enlarged the terms of the certificate and provided that it should be the sole evidence permissible on the part of the person producing the same to establish a right of entry into the United States. This rule of evidence was evidently prescribed by the amendment as a means of effectually preventing the violation or evasion of the prohibition against the coming of Chinese laborers. It was designed as a safeguard to prevent the unlawful entry of such laborers under the pretence that they belonged to the merchant class or to some other of the admitted classes. But the phraseology of the section, in requiring that the certificate of identification should state not only the holder's family and tribal name in full, his title or official rank, if any, his age, height, and all physical peculiarities, but also his former and present occupation or profession, when and where and how long pursued, and his place of residence, and, if a merchant, the nature, character and estimated value of the business carried on by him prior to and at the time of his application for such certificate, involves the exaction of the unreasonable and absurd condition of a foreign government certifying to the United States facts in regard to the place of abode and the business of

persons residing in this country which the foreign government can not be assumed to know, and the means of information in regard to which exist here, unless it be construed to mean that Congress intended that the certificates should be produced only by Chinese residing in China or some other foreign country, and about to come for the first time into the United tates for travel or business, or to take up their residence. * * *

"By general international law, foreigners who have become domiciled in a country other than their own acquire rights and must discharge
9 duties in many respects the same as possessed by and imposed upon the citizens of that country, and no restriction on the footing upon which such persons stand by reason of their domicil of choice, or commercial domicil, is to be presumed; while by our treaty with China, Chinese merchants domiciled in the United States have, and are entitled to exercise, the right of free egress and ingress, and all other rights, privileges, and immunities enjoyed in this country by the citizens or subjects of the 'most favored nations.'

"There can be no doubt, as was said by Mr. Justice Harlan, speaking for the court in Chew Heong v. United States, 112 U. S., 536-549, that 'since the purpose avowed in the act was to faithfully execute the treaty, any interpretation of its provisions would be rejected which imputed to Congress an intention to disregard the plighted faith of the Government, and consequently the court ought, if possible, to adopt that construction which recognized and saved rights secured by the treaty.'

"Tested by this rule it is impossible to hold that this section was intended to prohibit or prevent Chinese merchants having a commercial domicil here from leaving the country for temporary purposes and then returning to and reentering it, and yet such would be its effect, if construed as contended for on behalf of appellee."

In reason, it seems to me that this statute could not have been intended by Congress to apply to cases like the one now being considered. Its nonapplicability is shown by the fact that compliance with its requirements on the part of persons in the situation of this defendant is impossible, and it is unreasonable to presume that Congress intended to exact of persons whose right to dwell in this country has been secured by treaty stipulations performance of impossible conditions, or to deprive them of the right to come into this country for nonperformance of such conditions. If it was intended to abrogate the treaty Congress would have so declared in explicit terms.

I would not have felt called upon to write an opinion in this case if it were not for the fact that recently Judge Lacombe, in the Li Foon Case, 80 Fed. Rep., 881, has given effect to this statute as a barrier to the admission into the United States of an infant child of a Chinese merchant lawfully residing therein, and upon the authority of his decision the officers of the Government insist that the defendant in this case must be separated from her husband and returned to China.

10 In his opinion the learned judge seems to have been led to his conclusion by considerations of what he supposed to be the weight of authority, and yet he ignores entirely the decision by Judge Deady in the Chung Toy Ho Case, and the decision of the Supreme Court in the Lau Ow Bew Case. He says the only authority cited in support of the right of a child of a Chinese merchant, residing here, to

come into the United States is the Chung Shee Case, 71 Fed. Rep., 277, but "apparently in that case the betrothed bride held a certificate." As a matter of fact, the Chung Shee Case, as reported in 71 Fed. Rep., is not an authority on that point at all. The decision in that case by Judge Wellborn was to the effect that the right of the woman to come into the United States and remain had been finally adjudicated by Judge Bellinger, and that the judgment in her favor rendered at Portland, Oregon, was final and conclusive, and he therefore declined to consider the question as to the right of a wife or child of a Chinese merchant, in this country, to come into the United States without producing the certificate required by the act of 1884. Further, in his opinion, Judge Lacombe says:

"The clear weight of authority is against petitioner's contention (In re Ah Quan, 21 Fed., 182; In re Chinese Wife, id., 786; In re Wo Tai Li, 48 Fed., 668), and there is nothing in the language of the statute warranting any such construction, as was held by the Supreme Court in Wan Shing v. U. S., 140 U. S., 424; 11 Sup. Ct., 729."

In the Ah Quan Case, 21 Fed. Rep., 182, Judge Sawyer and Judge Hoffman gave an interpretation of the statutes harmonious with the conclusions of the Supreme Court in the Lau Ow Bew Case—that is to say, they held the requirements as to certificates required of Chinese laborers returning to the United States to be not applicable to Chinese laborers who departed from the United States prior to June 6, 1882,
11 before the collector of the port was prepared to give the certificates required by sec. 4 of the original act; nor to Chinese laborers who departed from the United States prior to July 5, 1884, or before the collector was prepared to issue certificates under the latter act, having certificates regularly issued under the act of 1882; nor to Chinese other than laborers entitled under the treaty with China, and not prohibited from entering the United States by the restriction acts, who left China or other foreign country before July 5, 1884, on their way to enter the United States. The reason given for excusing such persons from compliance with the letter of the statute, as I gather from the opinion, is that conditions impossible of performance are not to be presumed to have been intended by Congress. The report of the decision contains no statement of facts in the case which Judges Sawyer and Hoffman were called upon to consider, but it is apparent from the opinion that they did not consider the case of a wife or minor child of a Chinese merchant having an established business and domiciled in the United States previous to the coming of such wife or minor child.

In the Chinese Wife case, 21 Fed. Rep., 785, the woman in the case was the wife of a Chinese laborer, and belonged to the class of persons which the statutes prohibit from entering the United States, and Judge Sawyer placed his decision against the right which she claimed on that ground. The opinion by Mr. Justice Field, however, in that case does hold that a Chinese wife must be regarded as a distinct person and that to be entitled to admission she must furnish a certificate as required either by sec. 4 or by sec. 6 of the act of 1884, and his opinion is an authority supporting Judge Lacombe's decision, entitled to due respect. The only comment upon it which I deem proper to make is that it was rendered prior
12 to the decision of the Supreme Court in the case of Chew Heong, 112 U. S., 536–580, in which the court held that the 4th sec. of the

act of May 6, 1882, as amended by the act of July 5, 1884, prescribing the certificate which shall be produced by a Chinese laborer as the only evidence permissible to establish his right to reenter into the United States, is not applicable to Chinese laborers, who, residing in this country at the date of the treaty on Nov. 17, 1880, departed by sea before May 6, 1882, and remained out of the United States until after July 5, 1884, reversing the judgment of the circuit court of the United States for the district of California, given in accordance with the opinion of Mr. Justice Field and contrary to the opinion of Judge Sawyer.

In the Wo Tai Li case, Judge Hoffman held that the wife of a Chinese actor was not entitled to admission without producing the required certificate, but there is nothing in the report of the case to show that her husband was domiciled in this country, or that Judge Hoffman considered the question as to the right of Chinese persons not laborers, having a domicil in the United States, to bring their wives and minor children to dwell with them.

The Wan Shing case, 140 U. S., 424, is not an authority in point. The case is distinguished by the fact that Wan Shing did not, at the time of his proposed return to the United States, have an established business or domicil in the United States. Emphasis is given to these important facts in the opinion of Chief Justice Fuller in the Lau Ow Bew case.

Referring to the decision by Judge Lacombe in the Li Foon case, he states that apparently the betrothed bride, referred to in the Chung Shee case, held a certificate, as if that fact might be considered the basis for the decision in favor of her right to enter. It appears, however, by the
13 report of Judge Bellinger's decision that the only certificate which was considered in the case was a certificate identifying the husband and setting forth that the petitioner was his wife and that such certificate was intended to evidence her right to land by virtue of such relation, which certificate was prepared at Portland, Oregon, and forwarded to China. Certainly this was not the certificate contemplated or required by sec. 6 of the act of 1884. (In re Lum Lin Ying, 59 Fed. Rep., 682.)

I consider that it may be fairly claimed that the weight of authority is not as supposed by Judge Lacombe, but the contrary.

Looking now to the reasons for and against the rule contended for by the officers of the Government, I agree with Judge Deady that the admission of Chinese merchants with their families is not to be regarded as a mischief which the Chinese restriction and exclusion acts were intended to remedy. This is a commercial nation. The maintenance and extension of American commerce with the oriental countries must redound to the benefit of the American people as a whole. Chinese merchants in this country are doing an important part in fostering this important interest, and no benefit whatever can accrue to the people of this country by depriving them of liberty to dwell within our borders with their families under the protection of our laws. The argument that Chinese laborers will come to the United States in great numbers, under pretence of being members of families of merchants already living here, does not have very great force. The law has been administered as interpreted by Judge Deady since the date of his decision in the Chung Toy Ho Case in 1890, and the evils supposed to follow such a decision have not come to pass. But against all argument opposed to liberality towards Chinese of the merchant class, it must be said that it

is the duty of the court to declare the law as Congress has made
14 it, and harmonious with the established rules for the construction and interpretation of statutes. By this test I am constrained to hold that the defendant is entitled to be discharged.

C. H. HANFORD, *Judge.*

(Indorsed:) Opinion. Filed October 28, 1897. R. M. Hopkins, clerk, by H. M. Walthew, deputy.

15 In the United States district court for the district of Washington, northern division.

THE UNITED STATES
*vs.*
MRS. GUE LIM. } No. 1136.

*Agreed statement of facts.*

It is hereby agreed and stipulated that the following are the facts upon which said cause was heard and determined:

First. That Gue Lim is a Chinese woman and the lawful wife of Fook Kee, a Chinese merchant who was engaged in buying and selling merchandise at No. 320 Washington street, in the city of Seattle, Washington, under the firm name of Fook Kee & Company; that said Fook Kee was not engaged in the performance of any manual labor, except such as was necessary in the conduct of his business as such merchant, for over one year next preceding the date of his last departure from the United States, which was in April, 1896, and was in all respects a Chinese merchant lawfully domiciled in the United States.

Second. That said Gue Lim arrived at the port of Tacoma, Washington, from China, accompanied by her said husband, this being her first arrival in the United States, and that the collector of customs, acting under general instructions from the Secretary of the Treasury, allowed her to land on May . 1897, without the production of the certificate provided for by section 6 of the act of July 5, 1884.

C. E. CLAYPOOL,
*Assistant U. S. Attorney.*

GEO. S. BUSH,
*Attorney for Defendant.*

(Indorsed:) Stipulated facts. Filed June 9, 1898, in the U. S. district court. R. M. Hopkins, clerk, by A. N. Moore, deputy.

16 In the United States district court for the district of Washington, northern division.

UNITED STATES
*vs.*
MRS. GUE LIM, AH TONG, YEE YUEN, and AH QUONG. } No. 1136 in the northern division; Nos. 178, 179, and 181, respectively, in the western division.

*Appeal.*

The United States, by Wilson R. Gay, United States attorney, and Charles E. Claypool, assistant United States attorney, feeling itself

aggrieved by the order and judgment entered on the 28th day of October, 1897, in the above-entitled cause, does hereby appeal from the said order to the Supreme Court of the United States, and prays that its appeal may be allowed; and the respective causes of the United States against Ah Tong, Yee Yuen, and Ah Quong, being Nos. 178, 179, and 181 of the court docket of the western division of the above court, having been, by stipulation with respective counsel, heard at the same time, and to abide the order in the case of the United States against Mrs. Gue Lim, being No. 1136 of the court docket of the northern division of the above court, that transcripts of the records of proceedings and papers upon which said order is made, duly authenticated, may be sent to the Supreme Court of the United States.

WILSON R. GAY,
*U. S. Attorney.*

C. E. CLAYPOOL,
*Assistant U. S. Attorney.*

(Indorsed:) Appeal. Filed Jun. 13, 1898, in the U. S. district court. R. M. Hopkins, clerk, by H. M. Walthew, deputy.

17 In the United States district court for the district of Washington, northern division.

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| UNITED STATES<br>*vs.*<br>MRS. GUE LIM, AH TONG, YEE YUEN, and Ah Quong. | No. 1136 in the northern division; Nos. 178, 179, and 181, respectively, in the western division. |

*Entry.*

And now, to wit, on the 13th day of June, 1898, it is ordered that the appeal be allowed as prayed for, and it is further ordered that the clerk of said court prepare a transcript of the record of proceedings and papers upon which said order is made, duly authenticated, and transmit the same to the Supreme Court of the United States.

C. H. HANFORD, *District Judge.*

(Indorsed:) Entry allowing appeal. Filed Jun. 13, 1898, in the U. S. district court. R. M. Hopkins, clerk, by H. M. Walthew, deputy.

18 In the United States district court for the district of Washington, northern division.

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|---|---|
| UNITED STATES<br>*v.*<br>MRS. GUE LIM, AH TONG, YEE YUEN, and Ah Quong. | No. 1136 in the northern division. Nos. 178, 179, and 181, respectively, in the western division. |

*Assignment of errors.*

Afterwards, to wit, on the 13th day of June, 1898, in the June term of the above court, begun and holding in the city of Seattle, in the

northern division thereof, before the Honorable C. H. Hanford, judge, comes the United States of America, by Wilson R. Gay, United States attorney, and Charles E. Claypool, assistant United States attorney, and says that in the record and proceedings aforesaid there is manifest error in this, to wit:

The court erred in construing the treaty with China of November 17th, 1880 (22 Stat., 13, art. 2), and holding that in pursuance thereof the wives and minor children of Chinese merchants lawfully dwelling within the United States were not excluded from entering, notwithstanding the noncompliance of such wives and minor children with the provisions of the sixth section of the act of Congress of July 5th, 1884 (1st Sup. R. S. (2nd edition), page 459).

For other errors appearing upon the record.

And the United States prays that the order and judgment aforesaid may be reversed, annulled, and held for naught, and for such other relief as may be proper in the premises.

WILSON R. GAY,
*U. S. Attorney.*

C. E. CLAYPOOL,
*Assistant U. S. Attorney.*

(Indorsed:) Assignment of error. Filed June 11, 1898, in the U. S. district court. R. M. Hopkins, clerk, by H. M. Walthew, deputy.

19 In the United States district court for the district of Washington, northern division.

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|---|---|
| UNITED STATES<br>*vs.*<br>MRS. GUE LIM, AH TONG, YEE YUEN, and AH QUONG. | No. 1136 in the northern division.<br>Nos. 178, 179, and 181, respectively, in the western division. |

*Notice.*

To Mrs. GUE LIM and to GEORGE S. BUSH, her attorney:

You are hereby notified that the United States intends to appeal from the order heretofore, to wit, on the 28th day of October, 1897, entered in the above cause, and that on the 13th day of June, A. D. 1898, at ten o'clock a. m., at the United States court room in the city of Seattle, within the said district, the United States, by its attorneys, will apply to the Honorable C. H. Hanford, judge, for an order allowing said appeal.

WILSON R. GAY,
*U. S. Attorney.*

C. E. CLAYPOOL,
*Assistant U. S. Attorney.*

Due personal service of the above notice acknowledged this 7th day of June, A. D. 1898.

GEO. S. BUSH,
*Attorney for Defendant Mrs. Gue Lim.*

(Indorsed:) Notice. Filed Jun. 13, 1898, in the U. S. district court. R. M. Hopkins, clerk, by H. M. Walthew, deputy.

20 In the United States district court for the district of Washington, northern division.

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|---|---|
| UNITED STATES<br>*v.*<br>MRS. GUE LIM, AH TONG, YEE YUEN, and AH QUONG. | No. 1136 in the northern division.<br>Nos. 178, 179, and 181, respectively, in the western division. |

*Notice.*

TO AH TONG, YEE YUEN, and AH QUONG, and to A. R. COLEMAN, their attorney:

You are hereby notified that the United States intends to appeal from the order heretofore, to wit, on the 28th day of October, 1897, entered in the above cause, and that on the 13th day of June, A. D. 1898, at ten o'clock a. m., at the United States court room in the city of Seattle, within the said district, the United States, by its attorneys, will apply to the Honorable C. H. Hanford, judge, for an order allowing said appeal.

WILSON R. GAY,
*U. S. Attorney.*

C. E. CLAYPOOL,
*Assistant U. S. Attorney.*

Due personal service of the above notice acknowledged this 6th day of June, A. D. 1898.

A. R. COLEMAN,
*Attorney for Defendants Ah Tong, Yee Yuen, and Ah Quong.*

(Indorsed:) Notice. Filed Jun. 13, 1898, in the U. S. district court. R. M. Hopkins, clerk., by H. M. Walthew, deputy.

21 United States district court for the district of Washington.

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|---|---|
| UNITED STATES<br>*v.*<br>MRS. GUE LIM ET AL. | No. 1136. |

*Precipe.*

*To the clerk of the above-entitled court:*

You will please prepare transcript of the papers and proceedings in the case of the U. S. v. Mrs. Gue Lim, No. 1136 in the northern division, and the cases of the U. S. v. Ah Tong, Yee Yuen, and Ah Quong, Nos. 178, 179, and 181 in the western division, respectively, for use in the appeal of said cases, and notify this office when the same are complete.

C. E. CLAYPOOL,
*Assistant United States Attorney.*

(Indorsed:) Precipe. Filed Jun. 27, 1898. R. M. Hopkins, clerk; H. M. Walthew, deputy clerk.

22 In the United States district court for the district of Washington, northern division.

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| UNITED STATES *vs.* MRS. GUE LIM, AH TONG, YEE YUEN, and AH QUONG. | No. 1136, in the northern division. Nos. 178, 179, and 181, respectively, in the western division. |

*Citation.*

United States of America, by the Honorable C. H. Hanford, judge of the district court for the district of Washington, to Mrs. Gue Lim, Ah Tong, Yee Yuen, and Ah Quong, the above-named defendants, and to Mr. George S. Bush and Mr. A. R. Coleman, their attorneys:

Whereas the United States has lately appealed to the Supreme Court of the United States from the order and decree lately rendered in the district court of the United States for the district of Washington, made in favor of you, the said Mrs. Gue Lim, Ah Tong, Yee Yuen, and Ah Quong, said appeal having been directed to be taken by the Department of Justice of the Government of the United States, you are hereby cited to appear before the said Supreme Court of the United States, in the city of Washington, D. C., within sixty days from this date, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of Seattle, in the district of Washington, in the ninth circuit, this 28th day of June, in the year of our Lord one thousand eight hundred and ninety-eight

[SEAL.] C. H. HANFORD,
*U. S. District Judge.*

23 Service of the above citation by the delivery of a true copy thereof is acknowledged this 28th day of June, A. D. 1898.

GEO. S. BUSH,
*Attorney for Mrs. Gue Lim.*

Service of the above citation by the delivery of a true copy thereof is acknowledged this 29th day of June, A. D. 1898.

A. R. COLEMAN,
*Attorney for Ah Tong, Yee Yuen, and Ah Quong.*

(Indorsed:) Citation. Filed July 2, 1898, in the United States district court. R. M. Hopkins, clerk, by A. N. Moore, deputy.

24 In the United States commissioner's court, before the Honorable M. L. Clifford, United States commissioner.

THE UNITED STATES OF AMERICA, PLAINTIFF,
*vs.*
AH TONG, DEFENDANT.

*Notice of appeal.*

To the Honorable M. L. Clifford, United States commissioner, C. W. Ide, esq., United States marshal, and Honorable William H. Brinker, United States attorney:

You and each of you will take notice that the defendant, Ah Tong, in the above-entitled cause, hereby appeals from the judgment and decision

made and entered therein by the said M. L. Clifford, United States commissioner, on the 10th day of September, 1897, adjudging this defendant to be unlawfully in the United States, and ordering his deportation from said United States.

This appeal is taken to the Honorable C. H. Hanford, United States district judge for the district of Washington, at the city of Tacoma, in the western division of said district.

A. R. COLEMAN,
*Attorney for said Defendant.*

I hereby accept service and acknowledge receipt of a copy of the foregoing notice of appeal.

Filed Sept. 18", 1897, in the U. S. district court. R. M. Hopkins, clerk, by A. Reeves Ayres, deputy.

25 In the United States district court for the district of Washington, western division.

UNITED STATES OF AMERICA, PLAINTIFFS,
*vs.*
AH TONG, DEFENDANT. } No. 178.

*Order.*

Now, on this day, comes the above-named defendant, by A. R. Coleman, his attorney, and shows to the court that on the 10th day of September, 1897, the said defendant was, by M. L. Clifford, United States commissioner for the district of Washington, adjudged to be a Chinese laborer, unlawfully within the United States, and thereupon said commissioner ordered the said defendant to be deported from the United States to the Empire of China, and issued his writ of deportation directed to the marshal of the United States for the district of Washington, commanding him to deport and convey the said defendant to the Empire of China without unnecessary delay; that on the same day the said defendant, by his attorney, prayed an appeal from the judgment of the said commissioner to this court, and served written notice of such appeal upon said commissioner, and upon the marshal of the United States for the district of Washington, and upon the attorney of the United States for said district; and now prays this court to order the said marshal to suspend the execution of said writ of deportation until said appeal can be heard in this court and until the further order of this court in the premises, which said application and notice of appeal having been seen and carefully examined by the court:

It is ordered that the said appeal be properly docketed in this court, upon the payment of the lawful fee therefor, and that the marshal suspend the execution of the said writ of deportation until the fur-
26 ther order of this court.

Dated this 18th day of September, 1897.

C. H. HANFORD, *Judge.*

I hereby acknowledge service of the above order by delivery of a copy thereof to me this 18 day of September, 1897.

C. W. IDE,
*United States Marshal.*

Filed Sept. 18th, 1897. R. M. Hopkins, clerk, by A. Reeves Ayres, deputy.

27 In the district court of the United States for the district of Washington.

UNITED STATES OF AMERICA )
*v.* ) No. 178.
AH TONG. )

Now on this 21st day of October, 1897, this cause coming on regularly to be heard upon the appeal of the above-entitled cause by the above-named defendant from the judgment of M. L. Clifford, esq., United States commissioner, adjudging the said Ah Tong, defendant, to be a Chinese laborer unlawfully in the United States, and ordering him, the said defendant, to be deported to China; the United States being represented by William H. Brinker, esq., United States attorney, and defendant being represented by A. R. Coleman, esq.; and thereupon the trial of the cause proceeded, and the court finds from the evidence heard upon said trial that the said Ah Tong is the minor child of a Chinese merchant doing business in the United States of America, and that he, the said defendant, is lawfully entitled to be and remain in the United States.

Wherefore, by reason of the law and the premises, it is ordered that the judgment of the said M. L. Clifford, United States commissioner, ordering said defendant to be deported to China, be, and the same is now reversed, and that the said Ah Tong is now discharged and the action against him is now dismissed.

C. H. HANFORD, *Judge.*

(Indorsed:) Order discharging defendant. Filed Oct. 21, 1897. R. M. Hopkins, clerk.

28 In the United States district court for the district of Washington, western division.

THE UNITED STATES )
*v.* ) Nos. 178, 179, and 181.
AH TONG, YEE YUEN, AND AH QUONG. )

*Agreed statement of facts.*

These causes having by agreement been heard at the same time and with the case of the United States vs. Mrs. Gue Lim (being case No. 1136 in the United States district court for the district of Washington, northern division), it is hereby agreed and stipulated that the following are the facts upon which said causes were heard and determined:

First. That the defendants above named were born in China of parents lawfully married, and had resided in that country up to the time they

came to the United States to live with their respective fathers, and were still minors under the age of fifteen years.

Second. That the fathers of these boys were, and for a long time prior to the coming of the boys to this country had been, bona fide Chinese merchants lawfully residing and doing business in the city of Walla Walla, in this State, and had sent for their sons to come from China to live with them in Walla Walla, where they were residing with their fathers when arrested by a United States immigration officer.

Third. That the boys had never procured any certificate under section 6 of the act of 1882 as amended in 1884, but relied entirely upon the status of their fathers as merchants here to entitle them to come to this country, and upon that claim had been admitted by the collector of customs at Pt. Townsend.

C. E. CLAYPOOL,
*Asst. U. S. Attorney.*

A. R. COLEMAN,
*Attorney for Defendants.*

(Indorsed:) Statement of facts. Filed June 8, 1898. R. M. Hopkins, clerk, by Saml. D. Bridges, dept.

29 In the United States commissioner's court, before the Honorable M. L. Clifford, United States commissioner.

THE UNITED STATES OF AMERICA, PLAINTIFF,
*vs.*
YEE YUEN, DEFENDANT.

*Notice of appeal.*

To the Honorable M. L. Clifford, United States commissioner, C. W. Ide, esq., United States marshal, and Honorable William H. Brinker, United States attorney:

You and each of you will take notice that the defendant, Yee Yuen, in the above-entitled cause hereby appeals from the judgment and decision made and entered therein by the said M. L. Clifford, United States commissioner, on the 10th day of September, 1897, adjudging this defendant to be unlawfully in the United States, and ordering his deportation from said United States.

This appeal is taken to the Honorable C. H. Hanford, United States district judge for the district of Washington, at the city of Tacoma, in the western division of said district.

A. R. COLEMAN,
*Attorney for said Defendant.*

I hereby accept service and acknowledge receipt of a copy of the foregoing notice of appeal.

Filed Sept. 18th, 1897, in the U. S. district court. R. M. Hopkins, clerk, by A. Reeves Ayres, deputy.

30 In the United States district court for the district of Washington, western division.

UNITED STATES OF AMERICA, PLAINTIFFS,
*vs.*
YEE YUEN, DEFENDANT. } No. 179.

*Order.*

Now on this day comes the above-named defendant, by A. R. Coleman, his attorney, and shows to the court that on the 10th day of September, 1897, the said defendant was, by M. L. Clifford, United States commissioner for the district of Washington, adjudged to be a Chinese laborer unlawfully within the United States, and thereupon said commissioner ordered the said defendant to be deported from the United States to the Empire of China, and issued his writ of deportation, directed to the marshal of the United States for the district of Washington, commanding him to deport and convey the said defendant to the Empire of China without unnecessary delay; that on the same day the said defendant, by his attorney, prayed an appeal from the judgment of the said commissioner to this court, and served written notice of such appeal upon said commissioner, and upon the marshal of the United States for the district of Washington, and upon the attorney of the United States for said district, and now prays this court to order the said marshal to suspend the execution of said writ of deportation until said appeal can be heard in this court and until the further order of this court in the premises, which said application and notice of appeal having been seen and carefully examined by the court:

It is ordered that the said appeal be properly docketed in this court, upon the payment of the lawful fee therefor, and that the marshal suspend the execution of the said writ of deportation until the fur-
31 ther order of this court.

Dated this 18th day of September, 1897.

C. H. HANFORD, *Judge.*

I hereby acknowledge service of the above order by delivery of a copy thereof to me this 18 day of September, 1897.

C. W. IDE, *United States Marshal.*

(Indorsed:) Order allowing appeal. Filed Sept. 18, 1897. R. M. Hopkins, clerk. By A. Reeves Ayres, deputy.

32 In the district court of the United States for the district of Washington.

UNITED STATES OF AMERICA
*v.*
YEE YUEN. } No. 179.

Now on this 21st day of October, 1897, this cause coming on regularly to be heard upon the appeal of the above-entitled cause by the above-named defendant from the judgment of M. L. Clifford, esq., United States commissioner, adjudging the said Yee Yuen, defendant, to be a Chinese laborer unlawfully in the United States, and order-

ing him, the said defendant, to be deported to China, the United States being represented by William H. Brinker, esq., United States attorney, and defendant being represented by A. R. Coleman, esq.; and thereupon the trial of the cause proceeded, and the court finds from the evidence heard upon the said trial that the said Yee Yuen is the minor child of a Chinese merchant doing business in the United States of America, and that he, the said defendant, is lawfully entitled to be and remain in the United States.

Whereupon, by reason of the law and the premises, it is ordered that the judgment of the said M. L. Clifford, United States commissioner, ordering said defendant to be deported to China, be and the same is now reversed, and the said Yee Yuen is now discharged, and the action against him is now dismissed.

C. H. HANFORD, *Judge.*

(Indorsed:) Order discharging defendant. Filed Oct. 21, 1897. R. M. Hopkins, clerk.

33 In the United States district court for the district of Washington, western division.

THE UNITED STATES
*vs.*
AH TONG, YEE YUEN, AND AH QUONG. } Nos. 178, 179, and 181.

*Agreed statement of facts.*

These causes having by agreement been heard at the same time and with the case of The United States vs. Mrs. Gue Lim (being case No. 1136 in the United States district court for the district of Washington, northern division), it is hereby agreed and stipulated that the following are the facts upon which said causes were heard and determined:

First. That the defendants above named were born in China of parents lawfully married, and had resided in that country up to the time they came to the United States to live with their respective fathers, and were still minors under the age of fifteen years.

Second. That the fathers of these boys were, and for a long time prior to the coming of the boys to this country had been, bona fide Chinese merchants lawfully residing and doing business in the city of Walla Walla, in this State, and had sent for their sons to come from China to live with them in Walla Walla, where they were residing with their fathers when arrested by a United States immigration officer.

Third. That the boys had never procured any certificates under section 6 of the act of 1882, as amended in 1884, but relied entirely upon the status of their fathers as merchants here to entitle them to come to this country, and upon that claim had been admitted by the collector of customs at Pt. Townsend.

C. E. CLAYPOOL,
*Assistant U. S. Atty.*

A. R. COLEMAN,
*Attorney for Defendants.*

(Indorsed:) Statement of facts. Filed June 8, 1898. R. M. Hopkins, clerk, by Saml. D. Bridges, dep.

34 *In the United States commissioner's court, before the Honorab'e M. L. Clifford, United States commissioner.*

THE UNITED STATES OF AMERICA, PLAINTIFF,
*vs.*
AH QUONG, DEFENDANT.

*Notice of appeal.*

To the Honorable M. L. Clifford, United States commissioner; C. W. Ide, esq., United States marshal, and Honorable William H. Brinker, United States attorney:

You and each of you will take notice that the defendant, Ah Quong, in the above-entitled cause hereby appeals from the judgment and decision made and entered therein by the said M. L. Clifford, United States commissioner, on the 10th day of September, 1897, adjudging this defendant to be unlawfully in the United States and ordering his deportation from said United States.

This appeal is taken to the Honorable C. H. Hanford, United States district judge for the district of Washington, at the city of Tacoma, in the western division of said district.

A. R. COLEMAN,
*Attorney for said Defendant.*

I hereby accept service and acknowledge receipt of a copy of the foregoing notice of appeal.

(Indorsed:) U. S. vs Ah Quong. Filed Sept. 18", 1897, in the U. S. district court. R. M. Hopkins, clerk, by A. Reeves Ayres, deputy.

35 In the United States district court for the district of Washington, western division.

UNITED STATES OF AMERICA, PLAINTIFFS,
*vs.*
AH QUONG, DEFENDANT. } No. 181.

*Order.*

Now on this day comes the above-named defendant, by A. R. Coleman, his attorney, and shows to the court that on the 10th day of September, 1897, the said defendant was by M. L. Clifford, United States commissioner for the district of Washington, adjudged to be a Chinese laborer unlawfully within the United States, and thereupon said commissioner ordered the said defendant to be deported from the United States to the Empire of China, and issued his writ of deportation directed to the marshal of the United States for the district of Washington, commanding him to deport and convey the said defendant to the Empire of China without unnecessary delay; that on the same day the said defendant, by his attorney, prayed an appeal from the judgment of the said commissioner to this court, and served written notice of such appeal upon said com-

missioner, and upon the marshal of the United States for the district of Washington, and upon the attorney of the United States for said district, and now prays this court to order the said marshal to suspend the execution of said writ of deportation until said appeal can be heard in this court and until the further order of this court in the premises, which said application and notice of appeal having been seen and carefully examined by the court:

It is ordered that the said appeal be properly docketed in this court upon the payment of the lawful fee therefor, and that the marshal
36 suspend the execution of the said writ of deportation until the further order of this court.

Dated this 18th day of September, 1897.

C. H. HANFORD, *Judge.*

I hereby acknowledge service of the above order by delivery of a copy thereof to me this 18 day of September, 1897.

C. W. IDE,
*United States Marshal.*

(Indorsed:) Filed Sept. 18, 1897. R. M. Hopkins, clerk, by A. Reeves Ayres, deputy.

37 In the district court of the United States for the district of Washington.

UNITED STATES OF AMERICA
*v.*
AH QUONG. } No. 181.

Now, on this 21st day of October, 1897, this cause coming on regularly to be heard upon the appeal of the above-entitled cause by the above-named defendant from the judgment of M. L. Clifford, esq., United States commissioner, adjudging the said Ah Quong, defendant, to be a Chinese laborer unlawfully in the United States and ordering him, the said defendant, to be deported to China, the United States being represented by William H. Brinker, esq., United States attorney, and defendant being represented by A. R. Coleman, esq., and thereupon the trial of the cause proceeded, and the court finds from the evidence heard upon said trial that the said Ah Quong is the minor child of a Chinese merchant doing business in the United States of America, and that he, the said defendant, is lawfully entitled to be and remain in the United States.

Wherefore, by reason of the law and the premises, it is ordered that the judgment of the said M. L. Clifford, United States commissioner, ordering said defendant to be deported to China, be and the same is now reversed, and the said Ah Quong is now discharged, and the action against him is now dismissed.

C. H. HANFORD, *Judge.*

(Indorsed:) Order discharging defendant. Filed Oct. 21, 1897. R. M. Hopkins, clerk.

38 In the district court of the United States for the district of Washington.

UNITED STATES
*v.*
MRS. GUE LIM. } No. 1136 in the northern division.

UNITED STATES
*v.*
AH TONG. } No. 178 in the western division.

UNITED STATES
*v.*
YEE YUEN. } No. 179 in the western division.

UNITED STATES
*v.*
AH QUONG. } No. 181 in the western division.

UNITED STATES OF AMERICA,
*District of Washington, ss.*

I, R. M. Hopkins, clerk of the district court of the United States for the district of Washington, do hereby certify the foregoing thirty-seven (37) typewritten pages, numbered from one (1) to thirty-seven (37), both inclusive, to be a full, true, and correct copy of the record and of all proceedings had in the above-entitled causes, and that the same constitutes the transcript of the record upon appeal from the district court of the United States for the district of Washington to the Supreme Court of the United States in said causes wherein the United States of America is appellant, and Mrs. Gue Lim, Ah Tong, Yee Yuen, and Ah Quong are appellees.

I do further certify that the cost of preparing and certifying said transcript on appeal is the sum of nine dollars and fifty-five cents ($9.55), and that the same will be made a part of and included in my quarterly account for fees against the United States for the quarter ending September 30, 1898.

In testimony whereof I have hereunto set my hand and affixed the seal of said district court this 15th day of August, 1898.

[SEAL.] R. M. HOPKINS,
*Clerk United States District Court, District of Washington.*

39 In the United States district court for the district of Washington, northern division.

UNITED STATES
*vs.*
MRS. GUE LIM, AH TONG, YEE YUEN and AH QUONG. } No. 1136, in the northern division; Nos. 178, 179, and 181, respectively, in the western division.

*Citation.*

United States of America, by the Honorable C. H. Hanford, judge of the district court for the district of Washington, to Mrs. Gue Lim, Ah Tong, Yee Yuen, and Ah Quong, the above-named defendants, and to Mr. George S. Bush and Mr. A. R. Coleman, their attorneys:

Whereas the United States has lately appealed to the Supreme Court of the United States from the order and decree lately rendered in the

district court of the United States for the district of Washington, made in favor of you, the said Mrs. Gue Lim, Ah Tong, Yee Yuen, and Ah Quong, said appeal having been directed to be taken by the Department of Justice of the Government of the United States, you are hereby cited to appear before the said Supreme Court of the United States, in the city of Washington, D. C., within sixty days from this date, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of Seattle, in the district of Washington, in the ninth circuit, this 28th day of June, in the year of our Lord one thousand eight hundred and ninety-eight.

[SEAL.] C. H. HANFORD,
*U. S. District Judge.*

40 Service of the above citation, by the delivery of a true copy thereof, is acknowledged this 28th day of June, A. D. 1898.

GEO. S. BUSH,
*Attorney for Mrs. Gue Lim.*

Service of the above citation, by the delivery of a true copy thereof, is acknowledged this 29th day of June, 1898.

[SEAL.] A. R. COLEMAN,
*Attorney for Ah Tong, Yee Yuen, and Ah Quong.*

(Indorsed:) No. 1136. In the district court of the United States for the district of Washington, northern division. United States vs. Mrs. Gue Lim et al. Citation filed July 2, 1898, in the U. S. district court. R. M. Hopkins, clerk, by A. N. Moore, deputy.

(Indorsement on cover:) Case No. 16967. Washington D. C. U. S. Term No. 382. The United States, appellant, vs. Mrs. Gue Lim, Ah Tong, Yee Yuen, and Ah Quong. Filed August 27, 1898.